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must do so at the trial; otherwise he will be considered as having waived his objection.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 563.]

2. Appeal and Error (§ 1068 (1)*)—Proper Verdict Will Not Be Set Aside as Conflicting with Erroneous Charge.—Where the verdict is right, it will not be set aside because conflicting with an erroneous ruling or instruction of the court.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 601.]

3. Insurance (§ 665 (4)*)—Evidence Held to Show Fire Set by Policeman in Consequence of Mayor's Order.—In an action to recover under a fire policy providing the insurer should not be liable for loss caused by order of any civil authority, evidence held to show that the building was not burned by a mob endeavoring to get a negro who had taken refuge therein when pursued, but that the fire was set by a policeman as a result and consequence of an order of the mayor.

Sims, J., dissenting.

Error to Circuit Court of City of Danville.

Action by Laura E. Perkinson against the Queen Insurance Company of America. Judgment for plaintiff, and defendant brings error. Reversed, and judgment dismissing the action entered.

King & Spalding, of Atlanta, Ga., and *Eugene Withers*, of Danville, for plaintiff in error.

Harris & Harvey, of Danville, for defendant in error.

CANODY v. NORFOLK & W. RY. CO.

Jan. 20, 1921.

[105 S. E. 585.]

1. Railroads (§ 328 (4)*)—Automobile Truck Driver with Obstructed View Held Negligent.—An automobile truck driver who stopped, looked, and listened 10 feet from the track, at which point his view was obstructed, and did not look again until warned by his helper, who was not so favorably situated to see the train as the driver, and who could have seen the train in ample time to have stopped before reaching the track on which it was running, was contributorily negligent, notwithstanding his claim that he was required to look straight ahead to get the truck across the tracks without injury.

2. Railroads (§ 338*)—Last Clear Chance Inapplicable to Truck Driver Apparently Able to Save Himself.—The drive of an automo-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

bile truck who was contributorily negligent in driving onto the track without looking after he could have seen the approaching train cannot recover under the doctrine of last clear chance, where he was going so slowly that he could have stopped within a few feet, since the operatives of the train were justified in assuming he would stop before attempting to cross immediately in front of the train.

[Ed. Note.—For other cases, see 11 Va.-W. Va. Enc. Dig. 580.]

Error to Circuit Court, Appomattox County.

Action by H. L. Canody against the Norfolk & Western Railway Company. Judgment for defendant on sustaining demurrer to plaintiff's evidence, and plaintiff brings error. Affirmed.

S. L. Ferguson, of Appomattox, for plaintiff in error.

F. S. Kirkpatrick, of Lynchburg, and *W. H. Mann*, of Petersburg, for defendant in error.

F. W. STOCK & SONS *v.* OWEN & BANKER.

Jan. 20, 1921.

[105 S. E. 587.]

1. Corporations (§ 399 (7)*)—Seller's Branch Officer Must Be Held to Have Apparent Authority to Accept Orders.—A branch office of a corporation, conducted in its corporate name, must be held to have apparent authority to accept orders of buyers of its products, who have no knowledge that the branch office is not authorized to so do, and the corporation is bound by such acceptance.

[Ed. Note.—For other cases, see 10 Va.-W. Va. Enc. Dig. 566, 567.]

2. Appeal and Error (§ 1011 (1)*)—Judgment on Conflicting Evidence Not Disturbed.—Judgment of trial court on conflicting evidence will not be disturbed, having the same weight as a verdict.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 538, 539.]

Error to Circuit Court of City of Norfolk.

Action by Owen & Barker against F. W. Stock & Sons. Judgment for plaintiffs, and defendant brings error. Affirmed.

Hughes, Little & Seawell, of Norfolk, for plaintiff in error.

D. Lawrence Groner, of Norfolk, for defendant in error.

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.